

Exclusion from OGE Form 450 Filing Requirement

Army SOCO has published two additional exclusions from the requirement to file a Confidential Financial Disclosure Report (OGE Form 450). The exclusion was done by SECARMY Memorandum dated 20 Aug 99, and issued pursuant to 5 C.F.R. Sec. 2634.905. It is supposed to be posted in SOCO's Standards of Conduct documents on JAGCNet, but I can't find it. Therefore, I have reproduced it below.

I will summarize the two exclusions:

(1) Actually, the first is not an entirely new exclusion. Rather, it builds on and expands the JER 7-300b.(2) exclusion of non-contract office personnel who are involved in procurement matters of \$2,500, or less, each time, and \$20,000, or less, per year. The expansion applies ONLY to IMPAC card holders. For IMPAC card holders, the SECARMY Memo eliminates the single action criteria (\$2,500 or less) and sets only a per annum criteria of \$100,000. This exclusion now applies even if the IMPAC card holder works in the contracting or procurement office. But, it does not apply if the IMPAC card holder has a warrant, administers or monitors grants or other federally conferred benefits, or regulate or audit entities. This expansion does not apply to requirements generators, those who might accept and sign off on deliveries, or who might oversee the performance of small contracts... they still are governed by the \$2,500/\$20,000 rule... only to IMPAC card holders.

(2) Secondly, as an exclusion from the general requirement for special Government employees (18 U.S.C. 202(a)), as required by 5 C.F.R. Sec. 2634.904(b), academic interns are no longer have to file, if they would only file because they are a SGEs. (If you have not required your academic interns to file OGE Forms 450 as SGEs, don't worry... I don't think that anyone else was either, to include the Office of Government Ethics. This exclusion "legitimizes" practice).

The SECARMY Memo follows.

If you have any questions, let me know.

Mike Wentink

SECRETARY OF THE ARMY
Washington

August 20, 1999

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Exclusion from OGE Form 450 Filing Requirement

I have determined that more Army officers, employees and enlisted personnel are filing an OGE Form 450, Confidential Financial Disclosure Report, than is necessary for the integrity of Army programs. Supervisors are reminded that, when subordinates are unlikely to be involved in a real or apparent conflict of interest; when they are subject to a substantial degree of supervision; or when they exercise control over matters which would be inconsequential to Army integrity, they should not be required to file this disclosure report.

Exclusion from filing the OGE 450 is also appropriate when an employee only exercises control over matters that have a low dollar threshold. The Joint Ethics Regulation (JER), DoD 5500.7-R, para. 7-300b.(2) has excluded those employees who control expenditures of less than \$20,000 cumulatively per year. In spite of this exclusion, a number of IMPAC card holders have been required to file, even though they are subject to a high degree of supervision and do not have independent control of matters that are consequential to Army integrity.

Accordingly, pursuant to 5 C.F.R. 2634.905, I have determined that IMPAC credit card holders who make annual purchases totaling less than the small purchase threshold, as defined in the Federal Acquisition Regulations (currently \$100,000), shall be excluded from filing the OGE Form 450. This determination does not preclude individual supervisors from requiring subordinates to file the form when, in the supervisor's judgment, the subordinate has duties involving the exercise of significant independent judgment over matters that will have a substantial impact on the integrity of Army operations and relationships with non-federal parties. Further, this determination does not apply to individuals who hold contracting warrants, or otherwise fall within the categories defined in 5 C.F.R. ?? 2634.904(a)(1)(ii) [administering or monitoring grants, subsidies, licenses or other federally conferred financial or operational benefits] or (iii) [regulating or auditing any non-federal entity]; and JER, para. 7-300a [listing a number of positions presumed to have filing requirements].

Pursuant to 5 C.F.R. ? 2634.905, I further determine that academic student interns shall be excluded from filing an OGE Form 450. This determination applies to interns who are students at accredited academic

institutions as defined in 20 U.S.C. ?? 1141(a) and 2891(21). This determination does not preclude individual supervisors from requiring subordinates to file the form when, in the supervisor's judgment, the subordinate has duties involving the exercise of independent judgment over matters that will have a substantial impact on the integrity of Army operations and relationships with non-federal parties. Further, this determination does not apply to individuals who hold contracting warrants, or otherwise fall within the categories defined in 5 C.F.R. ?? 2634.904(a)(1)(ii) or (iii); and JER, para. 7-300a.

//signed//

Louis Caldera